

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

March 30, 1998

LB 404

newspaper or their competitor in Lincoln. This was in March 30th newspaper, at page 2B, and the headline is "Civil Court Counseling Not Based on Religion" and I am just going to read portions of it. "Two Dodge County judges and pastors of 17 local churches signed a pledge last week to refuse to marry any couples who have not had at least six weeks of premarital counseling." The article goes on to say that the counseling will not be of a religious nature, even though these judges are going to refer them to some Lutheran counseling service. I will tell you why I'm very upset with this article. Preachers can do anything they want to. They have freedom of religion under the First Amendment and the statute gives preachers the authority to perform marriage ceremonies in accordance with their beliefs, doctrines, tenets, superstitions, or whatever it is that motivates them, and those marriages will be valid provided the people have a marriage license and do whatever else the state might require. But when a judge, who has authority to perform marriages only because of his or her status as a judge, that judge has no authority under the constitution or the law to amend the statutes of Nebraska to place a condition on marriage, which is not found in the statute. I believe these two judges have exceeded their authority, and I'm going to contact the Chief Justice of the Nebraska Supreme Court, who has the responsibility, as administrator of the courts, to see how they function. I don't know whether these two judges are playing politics. I don't know if something was in the water that they drank just before they signed this pledge, but I don't see any justification for it whatsoever. The marriages that are performed by judges are strictly civil ceremonies. I and nobody else on this floor, because of our status as a legislator, would be authorized under the law to perform a legal marriage. The only civil official that I'm aware of who can legally perform a marriage in this state is a judge. I don't know about ship captains and all those kind of people, but the statutes lay out the requirements for being married. If judges are going to refuse to marry persons who meet every requirement of the statutes, I think the court should remove from that judge the authority to perform a marriage, or find that judge to be in violation of his or her judicial ethics. This is not a trifling matter. The idea of whether or not people get married may seem to be inconsequential, but I am looking at the usurpation of authority inherent in judges imposing conditions that are not